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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,278	01/11/2002	Christian Ensel	1454.1212	5517

21171 7590 04/03/2007  
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WASHINGTON, DC 20005

EXAMINER
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LESNIEWSKI, VICTOR D

ART UNIT	PAPER NUMBER
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2152

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/042,278

Applicant(s)

ENSEL ET AL.

Examiner

Victor Lesniewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13, 14 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The amendment filed 1/31/2007 has been placed of record in the file.
2. No claims have been amended.
3. Claims 1-11, 13, 14, and 27-29 are now pending.
4. The applicant's arguments with respect to claims 1-11, 13, 14, and 27-29 have been fully considered but they are not persuasive. A detailed discussion is set forth below.

### ***Claim Rejections - 35 USC § 103***

5. Claims 1-11, 13, 14, and 27-29 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Waclawsky et al. (U.S. Patent Number 5,974,457), hereinafter referred to as Waclawsky, in view of Nuansri et al. ("An Application of Neural Network and Rule-Based System for Network Management: Application Level Problems"), hereinafter referred to as Nuansri, as presented in the previous rejection dated 10/31/2006.

### ***Response to Arguments***

6. In the remarks, the applicant has argued:

- <Argument 1>

The combination of Waclawsky and Nuansri does not disclose the features of claim 1 because it does not disclose "determining from the possible dependences a normal range of dependence for at least some of the devices and services in essentially undisturbed states to train a neural network as a statistical estimator" as recited in claim 1.

- <Argument 2>

There is no motivation to combine the teachings of Waclawsky and Nuansri.

7. In response to argument 1, the combination of Waclawsky and Nuansri does disclose a neural network as a statistical estimator as recited in claim 1. The previous citation to Nuansri, page 478, first paragraph, shows the use of BRAINNE, an automated knowledge acquisition tool based on neural networks learning techniques. Although the applicant states that nothing can be found in Nuansri that teaches any statistical methods, Nuansri clearly states "BRAINNE provides symbolic knowledge in the format of IF-THEN rules." Also see the example at section 6.2 and figure 15.

8. Concerning the applicant's statements that Nuansri does not describe anything determining a normal range of dependence and that Nuansri's neural network is a pre-processor, the applicant is reminded that the rejection is based on the combination of Waclawsky and Nuansri. Waclawsky has been cited in the rejection for detail in determining a normal range of dependence. Further, it is contended that Nuansri's monitoring and diagnosing system is a hybrid system made up of a neural network system (BRAINNE) and a rule-based system (NEXPERT). The hybrid system as a whole has been taken into consideration when applying the teachings of the reference to the limitations of the claims.

9. In response to argument 2, it is maintained that the combination of Waclawsky and Nuansri is proper as there is motivation to combine the references. It is believed that the motivation previously stated in the rejection is sufficient motivation to combine the references as one of ordinary skill in the art would have recognized the advantage of a network monitoring system that can diagnose problems in more complex domains by using more than only expert

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system techniques. Although the applicant states that there is no motivation to combine the references, the applicant has not addressed this previously stated motivation.

10. In addition, the applicant has argued that claims rejected under 35 U.S.C. 103, but not explicitly discussed, are allowable based on the above arguments. Thus, claims disclosing similar limitations to the discussed claims and related dependent claims remain rejected under the same reasoning as presented above.

### *Conclusion*

11. **THIS ACTION IS MADE FINAL.** The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Lesniewski  
Patent Examiner  
Group Art Unit 2152



BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER